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TO

Amend the County Court (Ireland) Acts.

A.D. 1889.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

5 1. This Act shall extend to Ireland only.

Application
of Act.

2. This Act may be cited as the County Court Appeals (Ireland) Act, 1889.

Short title.

3. The terms and expressions used in this Act shall have the same meanings respectively as they have in the County Officers
10 and Courts (Ireland) Act, 1877, unless there is something in the context repugnant thereto.

Interpreta-
tion of terms.

4. Any party to a suit or matter dissatisfied with any decree, dismiss, direction, or order, of whatsoever nature, and whether adverse to him or in his favour, pronounced by any county court
15 judge in the exercise by him of any jurisdiction in equity or in probate matters, may appeal therefrom to the judge of assize for the county in which such decree, dismiss, direction, or order shall have been made or pronounced; and such judge of assize is hereby empowered and required to hear such suit or matter and to
20 make such decree or order thereon as he shall think proper, or he may remit the suit or matter to the county court judge with such declarations or directions as he shall think proper; and upon the hearing of every such appeal the judge may award all or such costs and all or such expenses of witnesses in connexion with the
25 appeal, and also all or such costs and all or such expenses of witnesses in the civil bill court, to be paid by or to such of the parties to the suit or matter as to him shall seem just, and may order any money deposited by any such party to the credit of any

Any party dissatisfied with any adjudication may appeal to the judge of assize, who is hereby authorised to hear and determine the same.

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A.D. 1889. — such suit or matter to be applied in or towards payment of such costs or expenses, or to be returned to the party lodging the same, or to be otherwise disposed of in accordance with the decree or order made upon appeal, as to such judge shall seem just.

Mode of
appeal.

5. Every appeal under this Act shall be taken either in the manner and form as nearly as may be, and shall be subject to the conditions specified in the County Court Amendment (Ireland) Act, 1882, or in such manner and form and subject to such conditions as may be prescribed under this Act.

Power of
county court
judge to
state a case.

6. Any person dissatisfied with the decision on any question of law made by a county court judge, may require the county court judge to direct a case to be stated; and the county court judge, unless satisfied that the application is frivolous or vexatious, shall direct a case to be stated, and shall sign the same, and it shall be lodged in the prescribed manner in the High Court. Cases stated in equity shall be heard and determined by the Lord Chancellor or one of the judges of the Chancery Division amongst whom the Lord Chancellor may distribute such cases. Cases stated in common law shall be heard and determined either by the Queen's Bench Division or the Exchequer Division as herein provided. Cases stated in probate matters shall be heard and determined by the President of the Probate and Matrimonial Division of the High Court.

A case may, if necessary, be amended either before or at the hearing by consent of the parties, or it may be referred back for amendment to the county court judge by whom the case was directed to be stated, or his successor in office.

The Lord Chancellor may, by general or special order, provide for the distribution amongst the judges of the Chancery Division of the High Court of the cases stated in equity lodged in court under this section. Until other provision is made by such general or special order for the distribution of the said cases stated in equity the same shall be distributed in the manner provided by the orders in force at the passing of this Act for the distribution of equity appeals from county courts, under section forty-five of the County Officers and Courts (Ireland) Act, 1877, and cases stated in common law shall be distributed between the Queen's Bench and Exchequer Divisions in rotation, the first two cases to be lodged in the Queen's Bench Division and the third in the Exchequer Division, and so on in continuous rotation in the proportion of two cases to the Queen's Bench Division to every one in the Exchequer Division.

Any person having a right to appeal against the decision of a county court judge upon any question, who shall require a case to

be stated upon such question, shall upon such case being stated be deemed to have abandoned his right of appeal. A.D. 1889.

7. Any party to any appeal under this Act dissatisfied with the determination or decision of a judge of assize in point of law thereon, may appeal from the same to a divisional court or judge of the High Court, provided that such party shall upon the day on which such determination or decision shall have been given, deliver to the registrar of such judge a notice in writing signed by him, his counsel, or solicitor, of his intention to appeal, and containing the grounds of his dissatisfaction, and shall also within seven days give notice of such appeal to the other party, and also within a like period lodge with the clerk of the peace *five pounds* as security for the costs of such appeal, provided that the party so dissatisfied may appeal on grounds different from those contained in such notice, and in the event of no such notice being delivered, or if such notice be delivered, but such money be not lodged within the time prescribed, the successful party may proceed on such determination or decision.

Power to
appeal from
a judge of
assize.

13 & 14 Vict.
c. 61. s. 16.

8. Such appeal shall be in the form of a case agreed on by both parties or their counsel or solicitors, and if they cannot agree, the judge of assize by whom the case was heard, upon being applied to by either of the parties or their counsel or solicitors, shall settle and sign the same.

As to
appeals,
13 & 14 Vict.
c. 61. s. 15

Cases stated by way of appeal shall be lodged in the High Court, and shall be disposed of in such divisions thereof as may be prescribed; and until rules of court are made for prescribing such divisions, such cases, if they relate to causes or matters in equity, shall go to the Chancery Division of the High Court, and if they relate to probate matters they shall go to the Probate and Matrimonial Division of the High Court; and if they relate to matters other than in equity or probate, shall be distributed between the Queen's Bench Division and the Exchequer Division of the High Court in the proportions herein-before provided for cases stated by a county court judge.

Such cases may, if necessary, be amended by the division or judge hearing the same either by consent of the parties or on the certificate of the judge before whom the civil bill appeal was heard.

If on any appeal the judge's notes are not produced upon the hearing in the High Court, or are deemed by the court to be incomplete, the divisional court or judge may hear and determine such appeal upon such further or other evidence as the court may deem sufficient.

A.D. 1889.

36 & 37 Vict.
c. 66. s. 45.13 & 14 Vict.
c. 61. s. 14.Effect of
decision
where case
stated.

The determination of such special cases and appeals by such divisional courts or judge respectively shall be final, unless special leave to appeal from the same to the Court of Appeal shall be given by the divisional court or judge by whom any such appeal or case stated shall have been heard, and the said divisional court or judge, or Court of Appeal respectively, may make such order with respect to the costs of the said special case or appeal as such court or judge shall think proper, and such order shall be final.

9. After the decision of a case stated by a county court judge, also after the decision of an appeal from or of a case stated by a judge hearing appeals from the county court, the county court judge and judge respectively shall be bound by such decision, and shall, subject to any amendments thereof made by the court or judge hearing the case, or to any directions given by the court or judge, make a decree, order, or rule in the proceeding in which the case was stated in accordance with such decision.

From and after the passing of this Act it shall be lawful for a county court judge to direct the clerk of the peace to attend at any place or places within his jurisdiction during such days as he shall think right for the purpose of conducting such inquiries and taking such accounts as shall be referred to him, and such clerk of the peace shall be paid for such extra days service such sum as may be approved of by the Lord Chancellor, with the concurrence of the county court judges or any five of them, with the consent of the Treasury, and it shall be lawful for the judge of assize, before whom any civil bill may be heard, to refer to the said clerk of the peace any matter in dispute, wholly or mainly consisting of matters of account.

Provision for
special cir-
cumstances
of Dublin
county and
city.Rules of
court,
proceedings,
forms,
scale of fees.

10. In the application of this Act to the courts held by the Recorder of Dublin, a judge of the High Court shall be in stead of a judge of assize, according to the practice heretofore used in appeals from the Recorder.

11.—(1.) In this Act, the expression "prescribed" means prescribed by rules and orders under this Act.

(2.) Rules and orders may be made for the purposes of this Act, and for prescribing forms, and for prescribing the notices required to be given to the parties to any proceeding to which this Act applies, and for directing which of such parties are entitled to be served with such notices, and for prescribing scales of fees, costs, and stamp duties.

(3.) Service of all notices and legal documents whatever may be effected, either according to the existing rules, orders, or statutory enactments applicable thereto, or in the prescribed manner. A.D. 1889.

(4.) In the case of the High Court the power of prescribing anything authorised by this Act to be prescribed shall be exercised by the authority, and subject to the conditions, by and subject to which the like powers are exercised under the Supreme Court of Judicature Act (Ireland), 1877. In cases arising under the Land Law (Ireland) Act, 1887, rules may be made by the authority mentioned in section thirty-three of the said Act.

(5.) In the case of the county court, the aforesaid powers shall be exercised by the authority and subject to the conditions by and subject to which they are exercised under the County Officers and Courts (Ireland) Act, 1877, as amended by any other Act or Acts.

(6.) All rules and orders, and scales of fees, costs, and charges, prescribed by rules made by the authorities mentioned in the said Acts respectively shall be and continue in full force and effect until altered according to law.

12. All jurisdiction, powers, and authorities conferred upon any civil bill court by the County Officers and Courts (Ireland) Act, 1877, and the County Court Amendment (Ireland) Act, 1882, are hereby conferred upon and may be exercised by any judge of assize engaged in hearing any appeal under this Act from any civil bill court. Jurisdiction extended to judge of assize.

13. From and after the passing of this Act section forty-three of the County Officers and Courts (Ireland) Act, 1877, and section eleven of the County Court Amendment (Ireland) Act, 1882, are hereby repealed. Repeal.

County Court Appeals
(Ireland).

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B I L L

To amend the County Court (Ireland)
Act.

(Proposed and brought in by
Mr. F. M. J. J. J., Mr. C. J. J., Mr. C. J. J.,
and Mr. J. J. J.)

Ordered, by The House of Commons, to be Printed,
on February 1888.

Printed by W. H. & Co. Limited,
Printers to the House of Commons, London.
Also by the Author, at the County Court, Dublin.
And by the Author, at the County Court, Dublin.
And by the Author, at the County Court, Dublin.

[Dated 1888. Price 1s.]

[No. 188.]